

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

NCMIC INSURANCE COMPANY,

Plaintiff,

v.

**Civil Action 2:18-cv-533
Chief Judge Edmund A. Sargus, Jr.
Magistrate Judge Chelsey M. Vascura**

RYAN D. SMITH, D.C., et al.,

Defendants.

REPORT AND RECOMMENDATION

Plaintiff commenced this action on May 31, 2018. (ECF No. 1.) To date, Plaintiff has not moved to amend the Complaint to substitute the real names for Jane Doe Defendants 2-50 nor effected service upon them as required by Federal Rule of Civil Procedure 4(m).

Accordingly, on February 2, 2019, this Court issued an order directing Plaintiff to show cause why the Court should not dismiss Jane Doe Defendants 2-50 and why the Court should allow an extension of time to effect service. (ECF No. 43.) Upon consideration of Plaintiff's response to the show cause order, the Court found good cause to extend the time to effect service over Jane Doe Defendants 2-50 until April 22, 2019. (ECF No. 45.) The Court cautioned that failure to serve Jane Doe Defendants 2-50 by April 22, 2019, will result in this action being dismissed without prejudice as to Jane Doe Defendants 2-50. (*Id.*)

On April 22, 2019, Plaintiff filed a Status Report and Response to the Court's Orders (ECF No. 55), asserting that it "has been unable to identify or serve Defendants Jane Does 2-50," and "understands this Court may determine to dismiss [Plaintiff's] action **as to Jane Doe**

Defendants 2-50 under Federal Rule of Civil Procedure 4(m).” (ECF No. 55 at 1-2.) It is therefore **RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** against Jane Doe Defendants 2-50 pursuant to Rule 4(m) for failure to timely effect service of process.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

/s/ Chelsey M. Vascura
CHELSEY M. VASCURA
UNITED STATES MAGISTRATE JUDGE